

1 ALLAN STEYER (SBN: 100318)
2 JESSICA GRANNIS (SBN: 240770)
3 STEYER LOWENTHAL BOODROOKAS
4 ALVAREZ & SMITH LLP
5 One California Street, Suite 300
San Francisco, California 94111
Tel: (415) 421-3400
Fax: (415) 421-2234
jgrannis@steyerlaw.com

Attorneys for Defendant Combined Management, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

APPLIED UNDERWRITERS, INC., a Nebraska Corporation, and APPLIED RISK SERVICES, INC., a Nebraska Corporation, Plaintiffs,
vs.
COMBINED MANAGEMENT, INC., a Maine Corporation, and Does 1 Through 10, Inclusive, Defendants.

CASE NO. C-07-5129 - BZ

**CERTIFICATE OF SERVICE OF
NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

1 I, Linda Rorem, certifies and declares as follows:

2 1. I am over the age of 18 years and not a party to this action.

3 2. My business address is One California St., Suite 300, San Francisco, California
4 94111, which is located in the city, county and state where the mailing described below took
5 place.

6 3. On October 9, 2007, I deposited in the United States Mail at San Francisco,
7 California, addressed as shown in the attached service list, a copy of the Notice to Adverse Party
8 of Removal to Federal Court dated October 5, 2007, a copy of which is attached to this
9 Certificate.

10 I declare under penalty of perjury that the foregoing is true and correct.

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12 Executed on October 9, 2007.

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15 Linda Rorem
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1 SERVICE LIST
2

3 Michael K. Perkins
4 Fine, Boggs & Perkins LLP
5 2450 South Cabrillo Hwy., Suite 100
6 Half Moon Bay, CA 94019
7 *Attorneys for plaintiffs Applied Underwriters, Inc.*
8 *and Applied Risk Services, Inc.*

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ENDORSED
FILED
San Francisco County Superior Court

1 ALLAN STEYER (SBN: 100318)
2 JESSICA GRANNIS (SBN: 240770)
3 STEYER LOWENTHAL BOODROOKAS
4 ALVAREZ & SMITH LLP
5 One California Street, Suite 300
6 San Francisco, California 94111
7 Tel: (415) 421-3400
8 Fax: (415) 421-2234

OCT 9 2007
GORDON PARK-LI, Clerk
BY _____
Deputy Clerk

6 Attorneys for Combined Management, Inc.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10
11 APPLIED UNDERWRITERS, INC., and) CASE NO. CGC 07 466160
12 APPLIED RISK SERVICES, INC.,)
13 Plaintiffs,)
14 vs.)
15 COMBINED MANAGEMENT, INC., and)
16 Does 1 Through 10, Inclusive,)
17 Defendants.)
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**NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

1 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT defendant, Combined Management, Inc., filed a Notice
3 of Removal in the United States District Court for the Northern District of California on
4 October 5, 2007, under Federal Case Number C07-5129.

5 A copy of (1) the Notice of Removal (2) Order Setting Initial Case Management
6 Conference (3) Standing Orders and (4) Notice of Assignment of Case to a United States
7 Magistrate Judge are attached to this Notice, and are served and filed herewith.

8
9 Dated: October 9, 2007

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

10
11 By: 

12 Allan Steyer
13 Jessica Grannis
14 Attorneys for Combined Management, Inc.
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1 ALLAN STEYER (SBN: 100318)
2 JESSICA GRANNIS (SBN: 240770)
3 STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP
4 One California Street, Suite 300
San Francisco, California 94111
Tel: (415) 421-3400
Fax: (415) 421-2234
5 jgrannis@steyerlaw.com

6 Attorneys for Defendant Combined Management, Inc.
7

ORIGINAL
FILED
OCT - 5 2007
RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BZ

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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 07 5129

13 CASE NO.

14 [Removed from Superior Court of
California San Francisco County, Case No.
CGC07466160]

15 NOTICE OF REMOVAL OF ACTION

16 [28 U.S.C. § 1441(b) and 1446(b)
(Diversity)]

17 DEMAND FOR JURY TRIAL

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APPLIED UNDERWRITERS, INC., a)
Nebraska Corporation, and APPLIED RISK)
SERVICES, INC., a Nebraska Corporation,)
Plaintiffs,
vs.
COMBINED MANAGEMENT, INC., a)
Maine Corporation, and Does 1 Through 10,)
Inclusive,
Defendants.

1 TO THE CLERK OF THE ABOVE ENTITLED COURT:

2 Please take notice that Defendant, Combined Management, Inc., a Maine corporation,
3 hereby removes this action from the Superior Court of California, County of San Francisco, to
4 this Court, on the following grounds:

5 1. The Defendant, Combined Management, Inc., ("Defendant") has been named as
6 a defendant in a civil action brought against it in the Superior Court of California, County of
7 San Francisco, entitled Applied Underwriters, Inc., and Applied Risk Services, Inc. v.
Combined Management, Inc., and Does 1 through 10, inclusive, Case Number CGC-07-466160.

8 Combined Management, Inc. was served on September 7, 2007. This Notice of Removal is
9 filed within 30 days after service on Combined Management, Inc. as required by 28 U.S.C. §
10 1446(b). Attached hereto as Exhibit A are copies of the Summons, Complaint, and Civil Cover
11 Sheet served on Plaintiff Combined Management, Inc. These documents, to the best of
12 Plaintiff's knowledge, are the only papers and pleadings on file with the Superior Court in this
13 action.

14 2. Defendant is informed and believes that Plaintiffs, Applied Underwriters, Inc.
15 and Applied Risk Services, Inc., ("Plaintiffs") were, and still are, Nebraska corporations with
16 their principle place of business in the State of Nebraska.

17 3. Defendant, Combined Management, Inc., was, and still is, a Maine corporation
18 with its principle place of business in the State of Maine.

19 4. This action is a civil action over which this Court has original jurisdiction
20 pursuant to 28 U.S.C. § 1332 and is one which may be removed to this Court by Defendant
21 pursuant to the provisions of 28 U.S.C. § 1441(a) in that it is a civil action between citizens of
22 different states and the matter in controversy exceeds the sum of \$75,000, inclusive of interest
23 and costs. Plaintiffs allege in paragraph 6 of their Complaint that Defendant owes Plaintiffs
24 \$278,901.48. Plaintiffs allege causes of action for breach of contract, breach of implied
25 covenant of good faith and fair dealing, and unjust enrichment.

26 5. Defendant, Combined Management, Inc., a Maine corporation, may remove this
27 entire action to this Court as a matter of right pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

1 6. Written notice will be filed with the Clerk of the Superior Court of California,
2 County of San Francisco, and with the adverse party as required by 28 U.S.C. § 1446(d).

3 WHEREFORE, Defendant Combined Management, Inc. prays that the above-captioned
4 action be removed from the California Superior Court to this Court, and that this Court accept
5 jurisdiction of this action and henceforth that this action be placed on the docket of this Court
6 for further proceedings, the same as though this action had originally been instituted in this
7 Court, and that no further or other proceedings shall be had with respect to the above-captioned
8 case in the Superior Court of California.

9
10 Dated: October 4, 2007

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

11
12 By: 

13 Allan Steyer
14 Jessica Grannis
15 Attorneys for Combined Management, Inc.
16

JURY DEMAND

17 Defendant Combined Management, Inc. hereby demands trial by jury.
18

19 Dated: October 4, 2007

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

20
21 By: 

22 Allan Steyer
23 Jessica Grannis
24 Attorneys for Combined Management, Inc.
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EXHIBIT K

SUMMONS
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
Combined Management, Inc.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Applied Underwriters, Inc., and Applied Risk Services, Inc.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seithelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/seithelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que la entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/seithelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de revisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/seithelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER:
(Número del Caso):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
400 McAllister Street
San Francisco, CA 94102

466160

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michael K. Perkins (Bar # 172560)
Fine, Boggs & Perkins, LLP

Phone No. (650) 712-8908
Fax No. (650) 712-1712

2450 S. Cabrillo Highway, Suite 100, Half Moon Bay, CA 94019

DATE:

(Fecha)

AUG 17 2007

GORDON PARK-L (Secretario)

KAREN LIU, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): Combined Management, Inc.

under: CCP 416.10 (corporation) CCP 416.60 (minor) CCP 416.20 (defunct corporation) CCP 416.70 (conservatee) CCP 416.40 (association or partnership) CCP 416.90 (authorized person) other (specify):

4. by personal delivery on (date):

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael K. Perkins (State Bar # 172560) Fine, Boggs & Perkins, LLP 2450 S. Cabrillo Highway, Suite 100, Half Moon Bay, CA 94019 TELEPHONE NO.: (650) 712-8908 FAX NO.: (650) 712-1712 ATTORNEY FOR (Name): Applied Underwriters, Inc. and Applied Risk Services, Inc. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME:		FOR COURT USE ONLY BY _____ COUNTY _____ DATE: 8/14 PH: 2:00 CLERK				
CASE NAME: Applied Underwriters, Inc., et al. v. Combined Management, Inc.						
CIVIL CASE COVER SHEET <table border="1" style="float: right;"> <tr> <td><input checked="" type="checkbox"/> Unlimited</td> <td><input type="checkbox"/> Limited</td> </tr> <tr> <td>(Amount demanded exceeds \$25,000)</td> <td>(Amount demanded is \$25,000 or less)</td> </tr> </table>		<input checked="" type="checkbox"/> Unlimited	<input type="checkbox"/> Limited	(Amount demanded exceeds \$25,000)	(Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
<input checked="" type="checkbox"/> Unlimited	<input type="checkbox"/> Limited					
(Amount demanded exceeds \$25,000)	(Amount demanded is \$25,000 or less)					
		CASE NUMBER: JUDGE: DEPT:				

Items 1-6 below must be completed (see Instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
 Auto (22)
 Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
 Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
 Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (18)
 Intellectual property (19)
 Professional negligence (25)
 Other non-PI/PD/WD tort (35)

Employment
 Wrongful termination (36)
 Other employment (18)

Contract
 Breach of contract/warranty (06)
 Rule 3.740 collections (09)
 Other collections (08)
 Insurance coverage (18)
 Other contract (37)

Real Property
 Eminent domain/inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer
 Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review
 Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
 Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
 Enforcement of judgment (20)

Miscellaneous Civil Complaint
 RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition
 Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): THREE (3)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 13, 2007

Michael K. Perkins

(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 8 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties In Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties In Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

Auto Tort

- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
- Asbestos Property Damage
- Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
- Medical Malpractice—Physicians & Surgeons
- Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
- Premises Liability (e.g., slip and fall)
- Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
- Intentional Infliction of Emotional Distress
- Negligent Infliction of Emotional Distress
- Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (18)
- Professional Negligence (25)
- Legal Malpractice
- Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)
- Employment
- Wrongful Termination (36)
- Other Employment (15)

CASE TYPES AND EXAMPLES

Contract	
Breach of Contract/Warranty (08)	
Breach of Rental/Lease	
Contract (<i>not unlawful detainer or wrongful eviction</i>)	
Contract/Warranty Breach—Seller Plaintiff (<i>not fraud or negligence</i>)	
Negligent Breach of Contract/Warranty	
Other Breach of Contract/Warranty	
Collections (e.g., money owed, open book accounts) (09)	
Collection Case—Seller Plaintiff	
Other Promissory Note/Collections Case	
Insurance Coverage (<i>not provisionally complex</i>) (18)	
Auto Subrogation	
Other Coverage	
Other Contract (37)	
Contractual Fraud	
Other Contract Dispute	
Real Property	
Eminent Domain/Inverse Condemnation (14)	
Wrongful Eviction (33)	
Other Real Property (e.g., quiet title) (26)	
Writ of Possession of Real Property	
Mortgage Foreclosure	
Quiet Title	
Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)	
Unlawful Detainer	
Commercial (31)	
Residential (32)	
Drugs (38) (<i>If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>)	
Judicial Review	
Asset Forfeiture (05)	
Petition Re: Arbitration Award (11)	
Writ of Mandamus (02)	
Writ—Administrative Mandamus	
Writ—Mandamus on Limited Court Case Matter	
Writ—Other Limited Court Case Review	
Other Judicial Review (39)	
Review of Health Officer Order	
Notice of Appeal—Labor Commissioner Appeals	

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
- Abstract of Judgment (Out of County)
- Confession of Judgment (*non-domestic relations*)
- Sister State Judgment
- Administrative Agency Award (*not unpaid taxes*)
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
- Declaratory Relief Only
- Injunctive Relief Only (*non-harassment*)
- Mechanics Lien
- Other Commercial Complaint Case (*non-tort/non-complex*)
- Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
- Civil Harassment
- Workplace Violence
- Elder/Dependent Adult Abuse
- Election Contest
- Petition for Name Change
- Petition for Relief From Late Claim
- Other Civil Petition

1 Michael K. Perkins, Esq (Bar No. 172560)
2 FINE, BOGGS & PERKINS LLP
3 2450 S. Cabrillo Hwy., Suite 100
Half Moon Bay, California 94019
Telephone: (650) 712-8908
Facsimile: (650) 712-1712

4 Attorneys for Plaintiffs
5 Applied Underwriters, Inc. and
Applied Risk Services, Inc.

ENDORSED
FILED
San Francisco County Superior Court

AUG 1 4 2007

GORDON PARK-LI, Clerk
BY: CHRISTINA E. BAUTISTA
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

JAN 25 2008 - 9 AM

DEPARTMENT 212

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

10
11 APPLIED UNDERWRITERS, INC.; and
12 APPLIED RISK SERVICES, INC.,

13 Plaintiffs,

14 v.

15 COMBINED MANAGEMENT, INC.;
and Does 1 through 10, Inclusive,

16 Defendants.

17 Case No. **SCO7-466160**

18 COMPLAINT

19 Plaintiffs allege as follows:

20 **PRELIMINARY STATEMENT**

21 1. Plaintiff Applied Underwriters, Inc. is a corporation licensed to do business in
22 California. Plaintiff Applied Risk Services, Inc. is a corporation licensed to do business in
23 California. (For purposes of this complaint, plaintiffs will be referred to collectively as
24 "Applied"). At all times relevant to this complaint, plaintiffs were located in San Francisco
25 County, California.

26 2. Defendant Combined Management, Inc. is a corporation which did business with
27 Applied in San Francisco, California.

3. Venue is proper in San Francisco County, California because the contract at issue was entered into, and performed, in San Francisco, California.

4. Plaintiffs are currently unaware of the names and capacities of Defendants DOES 1 through 10, and will amend this complaint to state said Defendants names and capacities when such information becomes known.

FACTUAL ALLEGATIONS

5. At defendant Combined Management's specific request and pursuant to a written agreement, Applied provided workers compensation insurance to defendant with a profit sharing component whereby defendant would participate in profit and losses generated by the workers' compensation policies provided to defendant. (A true and accurate copy of the pertinent portions of the parties' written contract is attached hereto and incorporated herein as Exhibit "A"). Applied carried out all of its obligations under the contract.

6. Pursuant to the terms of the parties' written contract, on January 23, 2006 Applied provided defendant with Profit Sharing Calculations reflecting a balance due and owing from defendant to Applied of \$278,901.48. (A true and accurate copy of the Profit Sharing Statement is attached hereto and incorporated herein as Exhibit "B"). Applied has made written demands for the \$278,901.48 from defendant, but defendant has failed and refused to pay the money owed to Applied according to the terms of the parties' contract.

FIRST CAUSE OF ACTION
Breach of Written Contract

7. Plaintiffs reallege and incorporate herein by reference all of the allegations of paragraphs 1 through 6 of this Complaint, as though set forth fully herein.

8. Defendant's failure to comply with the terms of the written contract as set forth above was wrongful and was a material breach of the contract. Specifically, Defendant promised to pay to Applied any losses incurred through the profit sharing component in the parties' written agreement. Defendant failed and refused to comply with its promises.

9. Plaintiffs have performed all obligations on their part under the parties' agreement. As a direct and proximate result of the foregoing breaches, Plaintiffs have been damaged in a sum

1 to be proven at trial, including but not limited to lost revenues, lost business opportunity, and lost
2 interest on business opportunity, in a sum exceeding the jurisdiction of this court.

3 Wherefore, Plaintiffs pray for Judgment against Defendant as set forth in the Prayer for
4 Relief.

5 **SECOND CAUSE OF ACTION**
6 **Breach of Implied Covenant of Good Faith and Fair Dealing**

7 10. Plaintiffs reallege and incorporate herein by reference all of the allegations of
8 paragraphs 1 through 9 of this Complaint, as though set forth fully herein

9 11. All contracts contain an implied covenant of good faith and fair dealing. As part
10 of that implied covenant, Defendant agreed to deal with Applied in good faith, and to comply
11 with the terms of the agreement which the parties negotiated.

12. Applied has performed all conditions, covenants and promises required to be
13 performed in accordance with the terms and conditions of the parties' agreement.

14. 13. Defendant has failed to perform all conditions, covenants and promises required
15 of it in accordance with the agreement, as set forth above.

16. 14. As a proximate and direct result of Defendant's wrongful conduct, Plaintiffs have
17 been damaged in a sum to be proven at trial, including but not limited to lost revenues, lost
18 business opportunity, and lost interest on business opportunity, in a sum exceeding the
19 jurisdiction of this court.

20 Wherefore, Plaintiffs pray for Judgment against Defendant as set forth in the Prayer for
21 Relief.

22 **THIRD CAUSE OF ACTION**
23 **Unjust Enrichment**

24 15. Plaintiffs reallege and incorporate herein by reference all of the allegations of
25 paragraphs 1 through 14 of this Complaint, as though set forth fully herein.

26 16. As a result of Defendant's breaches and misconduct as alleged herein, Defendant
27 has been unjustly enriched. Said unjust enrichment was to the detriment of Plaintiffs.

28 17. Defendant should be forced to give up the benefits it unjustly received, which and
29 said sum should be paid to Plaintiffs. This sum is at least \$278,901.48.

1 Wherefore, Plaintiffs pray for Judgment against Defendant as set forth in the Prayer for
2 Relief.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs request judgment as follows:

5 1. For monetary damages according to proof, in an amount of at least \$278,901.48,
6 in an exact amount to be proven at trial;

7 2. For interest at the legal rate, according to proof, including pre-judgment interest;

8 3. For an order disgorging Defendant of the money and other unjust enrichment
9 resulting to Defendant;

10 4. For costs as allowed by law; and,

11 5. For all further relief the court deems just and proper.

12
13 Dated: August 10, 2007

Respectfully submitted,

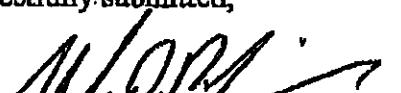
14
15 
Michael K. Perkins
16 FINE, BOGGS & PERKINS LLP

EXHIBIT A

Applied
Underwriters

HOME OFFICE

PO Box 281900

San Francisco, CA 94128-1900

Applied Underwriters Corp

Applied Group Insurance Holdings

Commercial General Indemnity

Applied Underwriters Indemnity RAC

American Employers Group

Applied Risk Services

PROPOSAL TRANSMITTAL

Date: March 8, 2002

To: Kevin Kilcoyne
Barrow Group, LLC

Fax: (770) 338-5440

Re: Combined Management
Program effective March 15, 2002

QUOTATION # 805319 Issued by Applied Risk Services

Terms:

- Quote includes 7.5% commission on standard premium
- Premium and fees will be billed on a direct bill basis.
- No authority is granted to issue certificates or binders.

Instructions to Implement Program

1. The attached proposal must be presented in its original form and in its entirety.
2. The attached acceptance letter must be signed and returned.
3. Remit any deposits listed in the proposal to Coverage Dynamics Group.
4. If coverage is bound subject to stipulations listed on this proposal, that coverage will expire 30 days after the effective date of the program if those stipulations are not satisfied.

Inquiries regarding this proposal should be directed to Carl DeBarbie at 415-656-5000.

This proposal supercedes and voids any proposals previously issued.
This proposal expires on the requested coverage effective date.

This quotation does not authorize service or bind any type of insurance coverage. Marketing representatives, agents, and brokers do not have the authority to bind coverage or enter into contracts on behalf of the company or its affiliates. Initiation of coverage is subject to final review and formal acceptance by Applied Risk Services ("Company"). Coverage will be bound only after: a proposal is issued by the Company, the acceptance letter attached to the proposal is signed and returned to the Company, the proposal is granted final approval by the Company's underwriters, and the Company issues written notice that coverage is bound.



Insurance Facility Proposal Workers' Compensation Insurance

QUOTATION # 805319 Issued by Applied Risk Services

Named insureds

Combined Management, Inc. and all clients listed in the application submitted except those specifically excluded below.

Program Effective Dates

March 15, 2002 to March 15, 2003

Coverage Form

Workers' Compensation Insurance

Coverage A: Statutory

Coverage B:	Bodily Injury by Accident	\$1,000,000 Each Accident
	Bodily Injury by Disease	\$1,000,000 Policy Limit
	Bodily Injury by Disease	\$1,000,000 Each Employee

Coverage Extensions and Exclusions:

- All/Other States Coverage, except Monopolistic states
- Stop Gap Coverage as required
- Notice of Cancellation-30 days, 10 days for non-payment of premium (or as per state regulation)
- Statutory Mandatory Endorsements

Issuing Carrier

Combined Specialty Insurance Company (formerly Virginia Surety Company)

NAIC Company Code: 40827

1999 Surplus: \$318,749,000.

1999 A.M. Best rating A+



Program Exclusions

Combined Management, Inc.:

Any operations not customarily considered office clerical or sales.

Clients of Combined Management, Inc.:

- USL&H
- Jones Act
- FELA
- Defense Base Act Coverage except where incidental.
- Operations involved in asbestos or fiberglass abatement.
- Operations involved in aviation.
- Operations involved in mining.
- Sub-aqueous operations.
- Operations involved in gas, oil, or geothermal drilling.
- Employee leasing companies.
- Temporary help companies.
- Coordinated policies with a self-insured-retention layer of more than \$10,000.

Policy Issuance

Master and multiple coordinated policies will be issued in accordance with rules and regulations filed with state compensation rating bureaus and/or the NCCL

All policies will be issued on a guaranteed cost or non-participating plan basis except as otherwise agreed.

Program Structure

Risk (listed below) will be held in the Applied Underwriters Indemnity RAC captive facility.

If applicable, collateral and loss funds will be held in a trust account designated by us. Collateral required in the form of cash or letters of credit written with our standard form from a bank acceptable to us.

No new exposures may be added without our express authorization.

Electronic submission of payroll audit information is due monthly in a format to be specified by us.

Other Terms

No authority is granted to issue certificates or binders.



Risk Program and Administrative Fees

Standard Premium is calculated using issuing company base rates multiplied by a factor of 1.19. Estimated annual Standard Premium is \$889,706 on estimated annual payroll of \$18,072,151.

This program has a profit and risk-sharing component. The minimum final premium amount will be .75 of Standard Premium. The maximum final premium amount will be 1.25 of Standard Premium.

Profit sharing, if any, will be payable 18 months from inception, and adjusted annually thereafter until all claims have been paid and closed, and is calculated as follows:

- Converted losses and expenses less than .75 of Standard Premium (\$667,280 based upon the estimated annual Standard Premium above) will result in the minimum premium.
- Converted losses and expenses in a range between .75 of Standard Premium and 1.25 of Standard Premium (the range would be \$667,280 to \$1,112,133 based upon the estimated annual Standard Premium above) will result in a final premium equivalent to the sum of converted losses and expenses.
- Converted losses and expenses greater than 1.25 of Standard Premium (\$1,112,133 based upon the estimated annual Standard Premium above) will result in the maximum premium.
- Converted losses are computed by applying the loss limitation and loss conversion factors. A claims handling expense of 10.00% of incurred claims (loss conversion factor of 1.10) on the first \$200,000 of each claim including ALAE.

Earned Standard Premium will be adjusted at final audit based on the total payroll reported for all applicable class codes times the adjusted insurance company base rates. The profit and risk-sharing plan will use losses based on the aggregate incurred loss value prior to the calculation date, which will be 18 months from policy inception of March 15, 2002 and adjusted annually thereafter until all claims have been paid and closed. Any return or additional payments will be made at those times using the factors noted in the profit and risk-sharing plan.

Surcharges, assessments, expense constants, and other similar charges are in addition to the above premium. Every effort has been made to include all applicable current premium surcharges. However, if a particular jurisdiction adds, removes or changes one or more surcharges, or if we inadvertently either fail to include one or more surcharges or include an incorrect surcharge, then any necessary changes will be brought to your attention as soon as possible. Since all such surcharges and assessments are regulated by the respective jurisdictions, we will follow those rules and bill you for full payment up-front of any surcharges or assessments.



Collateral and Loss Fund

Collateral and loss fund to be paid in cash or letters of credit written with our standard form from a bank acceptable to us.

Collateral is required to secure the maximum premium amount due in the program. Collateral is based on the estimated annual payroll of \$18,072,151 and will be evaluated throughout the program to keep the maximum premium fully funded.

Billing

Estimated annual pay-in premium: \$1,112,133

Deposit due at inception: \$ 88,971

Monthly payments are due and payable on or before the 15th day of the succeeding month. The first monthly payment is due on or before April 15, 2002 and each succeeding month thereafter. Monthly payroll audit reports are required by the 7th of each month for the preceding month. Monthly payments will be adjusted monthly to the actual earned payroll and exposure.

Collateral due at inception: \$100,000 with the balance due in two fixed installments of \$61,214 each due May 1, 2002 and June 1, 2002.

Stipulations

Post inception and periodic coverage and premium audits on premises.

Execution of the following agreements no later than 30 days after the effective date of the program: Rent-a-Captive Membership Contract, Retrocession Agreement, Program Administration Agreement, Indemnity Agreement, and Collateral Agreement.

Quotation is subject to final underwriting approval for: Alternative Warehouse, ALR, Inc., C&J Trucking

This proposal supersedes and voids any proposals previously issued.
This proposal expires on the requested coverage effective date.

This quotation does not authorize service or bind any type of insurance coverage. Marketing representatives, agents, and brokers do not have the authority to bind coverage or enter into contracts on behalf of the company or its affiliates. Initiation of coverage is subject to final review and formal acceptance by Applied Risk Services ("Company"). Coverage will be bound only after a proposal is issued by the company, the acceptance letter attached to the proposal is signed and returned to the Company, the proposal is granted final approval by the Company's underwriters, and the Company issues written notice that coverage is bound.

EXHIBIT B



Page 1 of 1
Customer Account No. 46-734112

Combined Management
67 Minot Ave
Auburn, ME 04210

Profit Calculation No. 2

Statement Date: 01/23/06
For the Period: 03/29/02 to 05/02/03

Questions? Changes? Comments?

Your account manager is:
Larry Billman

Call:

(866) 234-4414

Fax:
(402) 898-2583

Mail:
P.O. Box 3646
Omaha, NE 68103-0646

Coverage
Dynamics™

Profit Sharing Statement

Important Information

*****Full Payment is Due Upon Receipt of this Statement*****

Wire funds to:

Security National Bank, Omaha, NE, FBO Applied Risk Services, Acct # 10001891, ABA Routing # 1040C0841.
This statement is a summary only. This statement reflects the combined activity under the statutory policy(s),
and participation agreements in force under this program.

Premium and Losses

Total Program Containment Premium - Audited	914,638.08
Incurred Losses as of: 12/31/05	690,640.60
Adjustment for Per Loss Limitation	-87,527.59
Program Losses	778,088.29
Loss Development Factor	1.10
Expected Losses	856,676.12

Program Maximum, Minimum and Expense Calculation

Maximum Cost Factor	1.25
Maximum Cost	1,143,297.60
Minimum Cost Factor	0.75
Minimum Cost	885,978.56
Expense Cost Factor	0.58
Expense Cost	503,060.94
Expense Cost + Expected Losses	1,356,926.08
Total Program Base Cost	1,143,297.60

Summary of Current Balance Due

Program Base Cost as of Profit Share Calculation	1,143,297.60
Loss Conversion (Program Losses * 10.00%)	89,064.08
Additional Fees	0.00
Taxes and Assessments	1,286.80
Total Cost	1,213,630.48

Cash Paid In as of Profit Sharing Calculation	934,738.98
LOC on File as of Profit Sharing Calculation	0.00
Total Paid In	934,738.98

TOTAL AMOUNT DUE NOW

278,901.48

CASE NUMBER: CGC-07-400160 APPLIED UNDERWRITERS INC et al VS. COMBINED MAN

NOTICE TO PLAINTIFF

A Case Management Conference is set for

DATE: JAN-25-2008

TIME: 9:00AM

PLACE: Department 212
400 McAllister Street
San Francisco, CA 94102-3680

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference.

However, it would facilitate the issuance of a case management order without an appearance at the case management conference if the case management statement is filed, served and lodged in Department 212 twenty-five (25) days before the case management

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state.

ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS

IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A MANDATORY SETTLEMENT CONFERENCE OR TRIAL. (SEE LOCAL RULE 4)

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]

Superior Court Alternative Dispute Resolution Coordinator
400 McAllister Street, Room 103
San Francisco, CA 94102
(415) 551-3876

See Local Rules 3.6, 6.0 C and 10 D re stipulation to commissioners acting as temporary judges

Alternative Dispute Resolution (ADR) Information Package

Alternatives to Trial

**Here are some other ways to
resolve a civil dispute.**

The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. (CRC 201.9(c))

**Superior Court of California
County of San Francisco**

Introduction

Did you know that most civil lawsuits settle without a trial?

And did you know that there are a number of ways to resolve civil disputes without having to sue somebody?

These alternatives to a lawsuit are known as alternative dispute resolutions (ADR). The most common forms of ADR are mediation, arbitration and case evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediation, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through dispute resolution programs and private neutrals.

Advantages of ADR

ADR can have a number of advantages over a lawsuit.

- ***ADR can be speedier.*** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- ***ADR can save money.*** Court costs, attorneys fees, and expert fees can be saved.
- ***ADR can permit more participation.*** The parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- ***ADR can be flexible.*** The parties can choose the ADR process that is best for them. For example, in mediation the parties may decide how to resolve their dispute.
- ***ADR can be cooperative.*** This means that the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.

- **ADR can reduce stress.** There are fewer, if any, court appearances. And because ADR can be speedier, and save money, and because the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads for years.
- **ADR can be more satisfying.** For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' position harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

Disadvantages of ADR

ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.
- Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

ALTERNATIVE DISPUTE RESOLUTION PROGRAMS Of the San Francisco Superior Court

"It is the policy of the Superior Court that every noncriminal, nonjuvenile case participate either in an early settlement conference, mediation, arbitration, early neutral evaluation or some other alternative dispute resolution process prior to a mandatory settlement conference or trial." (Superior Court Local Rule 4)

This guide is designed to assist attorneys, their clients and self-represented litigants in complying with San Francisco Superior Court's alternative dispute resolution ("ADR") policy. Attorneys are encouraged to share this guide with clients. By making informed choices about dispute resolution alternatives, attorneys, their clients and self-represented litigants may achieve a more satisfying resolution of civil disputes.

The San Francisco Superior Court currently offers three ADR programs for civil matters; each program is described below:

- 1) Judicial arbitration
- 2) Mediation
- 3) The Early Settlement Program (ESP) in conjunction with the San Francisco Bar Association.

JUDICIAL ARBITRATION

Description

In arbitration, a neutral "arbitrator" presides at a hearing where the parties present evidence through exhibits and testimony. The arbitrator applies the law to the facts of the case and makes an award based upon the merits of the case. When the Court orders a case to arbitration it is called judicial arbitration. The goal of arbitration is to provide parties with an adjudication that is earlier, faster, less formal, and usually less expensive than a trial. Upon stipulation of all parties, other civil matters may be submitted to judicial arbitration.

Although not currently a part of the Court's ADR program, civil disputes may also be resolved through private arbitration. Here, the parties

voluntarily consent to arbitration. If all parties agree, private arbitration may be binding and the parties give up the right to judicial review of the arbitrator's decision. In private arbitration, the parties select a private arbitrator and are responsible for paying the arbitrator's fees.

Operation

Pursuant to CCP 1141.11 and Local Rule 4, all civil actions in which the amount in controversy is \$50,000 or less, and no party seeks equitable relief, shall be ordered to arbitration. A case is ordered to arbitration after the Case Management Conference. An arbitrator is chosen from the Court's Arbitration Panel. Most cases ordered to arbitration are also ordered to a pre-arbitration settlement conference. Arbitrations are generally held between 7 and 9 months after a complaint has been filed. Judicial arbitration is not binding unless all parties agree to be bound by the arbitrator's decision. Any party may request a court trial within 30 days after the arbitrator's award has been filed.

Cost

There is no cost to the parties for judicial arbitration or for the pre-arbitration settlement conference.

MEDIATION

Description

Mediation is a voluntary, flexible, and confidential process in which a neutral third party "mediator" facilitates negotiations. The goal of mediation is to reach a mutually satisfactory agreement that resolves all or part of the dispute after exploring the significant interests, needs, and priorities of the parties in light of relevant evidence and the law.

Although there are different styles and approaches to mediation, most mediations begin with presentations of each side's view of the case. The mediator's role is to assist the parties in communicating with each other, expressing their interests, understanding the interests of opposing parties, recognizing areas of agreement and generating options for resolution. Through questions, the mediator aids each party in assessing the strengths and weaknesses of their position.

A mediator does not propose a judgment or provide an evaluation of the merits and value of the case. Many attorneys and litigants find that mediation's emphasis on cooperative dispute resolution produces more satisfactory and enduring resolutions. Mediation's non-adversarial approach is particularly effective in disputes in which the parties have a continuing relationship, where there are multiple parties, where equitable relief is sought, or where strong personal feelings exist.

Operation

San Francisco Superior Court Local Court Rule 4 provides three different voluntary mediation programs for civil disputes. An appropriate program is available for all civil cases, regardless of the type of action or type of relief sought.

To help litigants and attorneys identify qualified mediators, the Superior Court maintains a list of mediation providers whose training and experience have been reviewed and approved by the Court. The list of court approved mediation providers can be found at www.sfgov.org/courts. Litigants are not limited to mediators on the court list and may select any mediator agreed upon by all parties. A mediation provider need not be an attorney.

Local Rule 4.2 D allows for mediation in lieu of judicial arbitration, so long as the parties file a stipulation to mediate within 240 days from the date the complaint is filed. If settlement is not reached through mediation, a case proceeds to trial as scheduled.

Private Mediation

The Private Mediation program accommodates cases that wish to participate in private mediation to fulfill the court's alternative dispute resolution requirement. The parties select a mediator, panel of mediators or mediation program of their choice to conduct the mediation. The cost of mediation is borne by the parties equally unless the parties agree otherwise.

Parties in civil cases that have not been ordered to arbitration may consent to private mediation at any point before trial. Parties willing to submit a matter to private mediation should indicate this preference on the Stipulation to Alternative Dispute Resolution form or the Case Management Statement (CM-110). Both forms are attached to this packet.

Mediation Services of the Bar Association of San Francisco

The Mediation Services is a coordinated effort of the San Francisco Superior Court and The Bar Association of San Francisco (BASF) in which a court approved mediator provides three hours of mediation at no charge to the parties. It is designed to afford civil litigants the opportunity to engage in early mediation of a case shortly after filing the complaint, in an effort to resolve the matter before substantial funds are expended on the litigation process. Although the goal of the program is to provide the service at the outset of the litigation, the program may be utilized at anytime throughout the litigation process.

The mediators participating in the program have been pre-approved by the court pursuant to strict educational and experience requirements.

After the filing of the signed Stipulation to Alternative Dispute Resolution form included in this ADR package the parties will be contacted by BASF. Upon payment of the \$200 per party administration fee, parties select a specific mediator from the list of court approved mediation providers. The hourly mediator fee beyond the first three hours will vary depending on the mediator selected. Waiver of the administrative fee based on financial hardship is available.

A copy of the Mediation Services rules can be found on the BASF website at www.sfbar.org, or you may call BASF at 415-782-8913.

Judicial Mediation

The Judicial Mediation program is designed to provide early mediation of complex cases by volunteer judges of the San Francisco Superior Court. Cases considered for the program include construction defect, employment discrimination, professional malpractice, insurance coverage, toxic torts and industrial accidents.

Parties interested in judicial mediation should file the Stipulation to Alternative Dispute Resolution form attached to this packet indicating a joint request for inclusion in the program. A preference for a specific judge may be indicated. The court Alternative Dispute Resolution Coordinator will coordinate assignment of cases that qualify for the program.

Cost

Generally, the cost of Private Mediation ranges from \$200 per hour to \$400 per hour and is shared equally by the parties. Many mediators are willing to adjust their fees depending upon the income and resources of the parties. Any party who meets certain eligibility requirements may ask the court to appoint a mediator to serve at no cost to the parties.

The Mediation Services of the Bar Association of San Francisco provides three hours of mediation time at no cost with a \$200 per party administrative fee.

There is no charge for participation in the Judicial Mediation program.

EARLY SETTLEMENT PROGRAM

Description

The Bar Association of San Francisco, in cooperation with the Court, offers an Early Settlement Program ("ESP") as part of the Court's settlement conference calendar. The goal of early settlement is to provide participants an opportunity to reach a mutually acceptable settlement that resolves all or part of the dispute. The two-member volunteer attorney panel reflects a balance between plaintiff and defense attorneys with at least 10 years of trial experience.

As in mediation, there is no set format for the settlement conference. A conference typically begins with a brief meeting with all parties and counsel, in which each is given an opportunity to make an initial statement. The panelists then assist the parties in understanding and candidly discussing the strengths and weaknesses of the case. The Early Settlement Conference is considered a "quasi-judicial" proceeding and, therefore, is not entitled to the statutory confidentiality protections afforded to mediation.

Operation

Civil cases enter the ESP either voluntarily or through assignment by the Court. Parties who wish to choose the early settlement process should indicate this preference on the status and setting conference statement.

If a matter is assigned to the ESP by the Court, parties may consult the ESP program materials accompanying the "Notice of the Early Settlement Conference" for information regarding removal from the program.

Participants are notified of their ESP conference date approximately 4 months prior to trial. The settlement conference is typically held 2 to 3 months prior to the trial date. The Bar Association's ESP Coordinator informs the participants of names of the panel members and location of the settlement conference approximately 2 weeks prior to the conference date.

Local Rule 4.3 sets out the requirements of the ESP. All parties to a case assigned to the ESP are required to submit a settlement conference statement prior to the conference. All parties, attorneys who will try the case, and insurance representatives with settlement authority are required to attend the settlement conference. If settlement is not reached through the conference, the case proceeds to trial as scheduled.

Cost

All parties must submit a \$200 generally non-refundable administrative fee to the Bar Association of San Francisco. Parties who meet certain eligibility requirements may request a fee waiver. For more information, please contact the ESP Coordinator at (415) 982-1600.

For further information about San Francisco Superior Court ADR programs or dispute resolution alternatives, please contact:

Superior Court Alternative Dispute Resolution Coordinator,
400 McAllister Street, Room 103
San Francisco, CA 94102
(415) 551-3876

or visit the Superior Court Website at
http://sfgov.org/site/courts_page.asp?id=3672

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

400 McAllister Street, San Francisco, CA 94102-4514

Plaintiff

v.

Defendant

Case No. _____

**STIPULATION TO ALTERNATIVE
DISPUTE RESOLUTION**

The parties hereby stipulate that this action shall be submitted to the following alternative dispute resolution process:

Private Mediation
 Binding arbitration
 Non-binding judicial arbitration
 BASF Early Settlement Program
 Other ADR process (describe) _____

Mediation Services of BASF

Judicial Mediation

Judge _____

Judge _____

Plaintiff(s) and Defendant(s) further agree as follows:

Name of Party Stipulating

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Plaintiff Defendant Cross-defendant

Dated: _____

Name of Party Stipulating

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Plaintiff Defendant Cross-defendant

Dated: _____

Name of Party Stipulating

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Plaintiff Defendant Cross-defendant

Dated: _____

Additional signature(s) attached

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		CM-110 FOR COURT USE ONLY
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PLAINTIFF/PETITIONER:		
DEFENDANT/RESPONDENT:		
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		CASE NUMBER:
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept: _____ Div: _____ Room: _____ Address of court (if different from the address above): _____		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by party (name): _____
 - b. This statement is submitted jointly by parties (names): _____
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date): _____
 - b. The cross-complaint, if any, was filed on (date): _____
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not): _____
 - (2) have been served but have not appeared and have not been dismissed (specify names): _____
 - (3) have had a default entered against them (specify names): _____
 - c. The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served): _____
4. **Description of case**
 - a. Type of case in complaint cross-complaint (describe, including causes of action): _____

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	---------------------

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request a jury trial a nonjury trial (if more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- The trial has been set for (date): _____
- No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain): _____
- Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability): _____

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- days (specify number): _____
- hours (short causes) (specify): _____

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. Preference

This case is entitled to preference (specify code section): _____

10. Alternative Dispute Resolution (ADR)

- Counsel has has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.
- All parties have agreed to a form of ADR. ADR will be completed by (date): _____
- The case has gone to an ADR process (indicate status): _____

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. d. The party or parties are willing to participate in (check all that apply):

- (1) Mediation
- (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
- (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
- (4) Binding judicial arbitration
- (5) Binding private arbitration
- (6) Neutral case evaluation
- (7) Other (specify):

- e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. This case is exempt from judicial arbitration under rule 3.B11 of the California Rules of Court (specify exemption):

11. Settlement conference

The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

Bankruptcy Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status: Additional cases are described in Attachment 14a.
- b. A motion to consolidate coordinate will be filed by (name party):

15. Bifurcation

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

- c. The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other Issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

Previous case management orders in this case are (*check one*): none attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

 Additional signatures are attached



Superior Court of California County of San Francisco

Judicial Mediation Program

Introducing a new court alternative dispute resolution program that provides judicial mediation of complex civil cases

The Judicial Mediation program offers mediation of complex civil litigation by a San Francisco Superior Court judge familiar with the area of the law that is the subject of the controversy. Cases that will be considered for participation in the program include, but are not limited to professional malpractice, construction, employment, insurance coverage disputes, mass torts and complex commercial litigation. Judicial mediation offers civil litigants the opportunity to engage in early mediation of a case shortly after filing the complaint in an effort to resolve the matter before substantial funds are expended. This program may also be utilized at anytime throughout the litigation process. The panel of judges currently participating in the program includes:

The Honorable David L. Ballati
The Honorable Anne Bouliane
The Honorable Ellen Chaitin
The Honorable John J. Conway
The Honorable Robert L. Dondero
The Honorable Ernest H. Goldsmith
The Honorable Curtis E. A. Karnow
The Honorable Patrick J. Mahoney

The Honorable Tomar Mason
The Honorable James J. McBride
The Honorable Kevin M. McCarthy
The Honorable John E. Munter
The Honorable Ronald Evans Quidachay
The Honorable A. James Robertson, II
The Honorable Mary E. Wiss

Parties interested in judicial mediation should file the Stipulation to Alternative Dispute Resolution form attached to this packet indicating a joint request for inclusion in the program and deliver a courtesy copy to Dept. 212. A preference for a specific judge may be indicated. The court Alternative Dispute Resolution Coordinator will facilitate assignment of cases that qualify for the program.

Note: Space is limited. Submission of a stipulation to judicial mediation does not guarantee inclusion in the program. You will receive written notification from the court as to the outcome of your application.

Superior Court Alternative Dispute Resolution
400 McAllister Street, Room 103, San Francisco, CA 94102
(415) 551-3876

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS

Applied Underwriters, Inc. and Applied Risk Services

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

Nebraska

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Michael K. Perkins; Fine Boggs & Perkins, LLP; 2450 S. Cabrillo Hwy, Ste. 100; Half Moon Bay, CA 94019

DEFENDANTS

Combined Management, Inc.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Maine

ATTORNEYS (IF KNOWN)

Allan Steyer/Jessica Grannis; Steyer Lowenthal, et al.; One California Street, Ste 300; San Francisco, CA 94111

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff

3 Federal Question
(U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF
(For diversity cases only) AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input checked="" type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input checked="" type="checkbox"/> 6	<input checked="" type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

Original Proceeding

Removed from State Court

Remanded from Appellate Court

Reinstated or Reopened

Transferred from Another district (specify)

Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance	<input checked="" type="checkbox"/> PERSONAL INJURY	<input checked="" type="checkbox"/> PERSONAL INJURY	<input checked="" type="checkbox"/> 610 Agriculture	<input checked="" type="checkbox"/> 400 State Reapportionment
<input checked="" type="checkbox"/> 120 Marine	<input checked="" type="checkbox"/> 310 Airplane	<input checked="" type="checkbox"/> 362 Personal Injury Med Malpractice	<input checked="" type="checkbox"/> 422 Appeal 28 USC 158	<input checked="" type="checkbox"/> 410 Antitrust
<input checked="" type="checkbox"/> 130 Miller Act	<input checked="" type="checkbox"/> 315 Airplane Product Liability	<input checked="" type="checkbox"/> 365 Personal Injury Product Liability	<input checked="" type="checkbox"/> 423 Withdrawal 28 USC 157	<input checked="" type="checkbox"/> 430 Banks and Banking
<input checked="" type="checkbox"/> 140 Negotiable Instrument	<input checked="" type="checkbox"/> 320 Assault Libel & Slander	<input checked="" type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input checked="" type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input checked="" type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input checked="" type="checkbox"/> 330 Federal Employers Liability			<input checked="" type="checkbox"/> 460 Deportation
<input checked="" type="checkbox"/> 151 Medicare Act	<input checked="" type="checkbox"/> 340 Marine			<input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans)	<input checked="" type="checkbox"/> 345 Marine Product Liability	<input checked="" type="checkbox"/> PERSONAL PROPERTY	<input checked="" type="checkbox"/> 520 Copyrights	<input checked="" type="checkbox"/> 480 Consumer Credit
<input checked="" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input checked="" type="checkbox"/> 370 Other Fraud	<input checked="" type="checkbox"/> 530 Patent	<input checked="" type="checkbox"/> 490 Cable/Satellite TV
<input checked="" type="checkbox"/> 160 Stockholders Suits	<input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability	<input checked="" type="checkbox"/> 371 Truth in Lending	<input checked="" type="checkbox"/> 540 Trademark	<input checked="" type="checkbox"/> 510 Selective Service
<input checked="" type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input checked="" type="checkbox"/> 380 Other Personal Property Damage		<input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange
<input checked="" type="checkbox"/> 195 Contract Product Liability		<input checked="" type="checkbox"/> 385 Property Damage Product Liability		<input checked="" type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input checked="" type="checkbox"/> 198 Franchise				<input checked="" type="checkbox"/> 881 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		<input checked="" type="checkbox"/> 882 Economic Stabilization Act
<input checked="" type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 441 Voting	<input checked="" type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus:		<input checked="" type="checkbox"/> 883 Environmental Matters
<input checked="" type="checkbox"/> 220 Foreclosure	<input checked="" type="checkbox"/> 442 Employment	<input checked="" type="checkbox"/> 530 General		<input checked="" type="checkbox"/> 884 Energy Allocation Act
<input checked="" type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 443 Housing	<input checked="" type="checkbox"/> 535 Death Penalty		<input checked="" type="checkbox"/> 885 Freedom of Information Act
<input checked="" type="checkbox"/> 240 Torts to Land	<input checked="" type="checkbox"/> 444 Welfare	<input checked="" type="checkbox"/> 540 Mandamus & Other		<input checked="" type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input checked="" type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 445 Amer w/ disab - Empl	<input checked="" type="checkbox"/> 550 Civil Rights		<input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
<input checked="" type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 448 Amer w/ disab - Other	<input checked="" type="checkbox"/> 555 Prison Condition		<input checked="" type="checkbox"/> 890 Other Statutory Actions
FEDERAL TAX SUITS				
			<input checked="" type="checkbox"/> 870 Taxes (US Plaintiff or Defendant)	
			<input checked="" type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Section 1446(b), Plaintiff, a Nebraska Corp., has sued Defendant, a Maine Corp., for breach of contract in excess of \$75,000.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint:

UNDER F.R.C.P. 23

JURY DEMAND: YES NO

VIII. RELATED CASE(S) PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
IF ANY "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND

SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. **(a) Plaintiffs - Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a). F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS

Applied Underwriters, Inc. and Applied Risk Services

DEFENDANTS

Combined Management, Inc.

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)**

Nebraska

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

Maine

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Michael K. Perkins; Fine Boggs & Perkins, LLP; 2450 S.
Cabrillo Hwy, Ste. 100; Half Moon Bay, CA 94019

ATTORNEYS (IF KNOWN)

Allan Steyer/Jessica Grannis; Steyer Lowenthal, et al.; One
California Street, Ste 300; San Francisco, CA 94111

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF
(For diversity cases only) AND ONE BOX FOR DEFENDANT)**

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input checked="" type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> Original Proceeding	<input type="checkbox"/> Removed from State Court	<input type="checkbox"/> Remanded from Appellate Court	<input type="checkbox"/> Reinstated or Reopened	<input type="checkbox"/> Transferred from Another district (specify) _____	<input type="checkbox"/> Multidistrict Litigation	<input type="checkbox"/> Appeal to District Judge from Magistrate Judgment
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V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 480 Copyrights	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 483 Patent	<input type="checkbox"/> 490 Cable/Satellite TV
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 373 Truth in Lending	<input type="checkbox"/> 484 Trademark	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus:	<input type="checkbox"/> 861 HIA (1385ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 863 DIWC/DIWVW (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 864 SSDI Title XVI	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer w/ disab - Empl	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 899 Other Statutory Actions
FEDERAL TAX SUITS				
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant	
		<input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7809	

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Section 1446(b). Plaintiff, a Nebraska Corp., has sued Defendant, a Maine Corp., for breach of contract in excess of \$75,000.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint:

UNDER F.R.C.P. 23

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
"NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND

SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a). F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLIED UNDERWRITERS INC.,

Plaintiff(s),

v.

COMBINED MANAGEMENT INC.,
Defendant(s).

No. C 07-05129 BZ

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Bernard Zimmerman. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order , the Notice of Assignment of Case to a United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at www.adr.cand.uscourts.gov. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
10/5/2007	Notice of removal filed	
2/4/2008	*Last day to: <ul style="list-style-type: none"> • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference 	<u>FRCivP 26(f) & ADR L.R.3-5</u> <u>Civil L.R. 16-8</u>
2/19/2008	*Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
2/25/2008	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm G, 15th Floor, SF at 4:00 PM	<u>Civil L.R. 16-10</u>

* If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.

1 (Rev. 01/2002)
2
3**STANDING ORDERS**

4 1. Within 30 days of filing a complaint, plaintiff shall serve and file either a
5 written consent to Magistrate Judge Zimmerman's jurisdiction or a written request for
6 reassignment to a district judge. Within 30 days of being served with a complaint or
7 third party complaint, a defendant or third party defendant shall serve and file either a
8 written consent to Magistrate Judge Zimmerman's jurisdiction or a written request for
reassignment to a district judge.

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10 2. Civil law and motion is heard on the first and third Wednesdays of every
11 month at 10:00 a.m. Criminal law and motion is heard on the second and fourth
12 Wednesdays of every month at 1:30 p.m.

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14 3. A copy of any brief or other document containing a legal citation **shall** be
15 submitted to chambers on a diskette formatted preferably in WordPerfect 5, 6, 8 or 9. A
16 chambers copy of any document **may** be submitted on CD-ROM with hypertext links to
17 exhibits.

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19 4. Any proposed order in a case subject to electronic filing shall be sent by
20 e-mail to: bzpo@cand.uscourts.gov. This address is to be used only for proposed
21 orders unless otherwise directed by the court.

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23 5. Unless expressly requested by the Court, documents should **not be faxed**
24 to chambers but should be filed or lodged in accordance with the Local Rules of Court.
25 The Court should not be routinely copied on correspondence between counsel.

26
27 6. Motions for **summary judgment** shall be accompanied by a statement of
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1 the material facts not in dispute supported by citations to admissible evidence. The
2 parties shall file a joint statement of undisputed facts where possible. If the parties are
3 unable to reach complete agreement after meeting and conferring, they shall file a joint
4 statement of the undisputed facts about which they do agree. Any party may then file a
5 separate statement of the additional facts that the party contends are undisputed. A
6 party who without substantial justification contends that a fact is in dispute is subject to
7 sanctions.

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9 7. Parties are reminded that most procedural questions are answered in the
10 Local Rules or these Standing Orders. Parties should not contact Chambers for
11 answers to procedural questions. The Local Rules are available for public viewing at
12 the Court's internet site - <http://www.cand.uscourts.gov>.

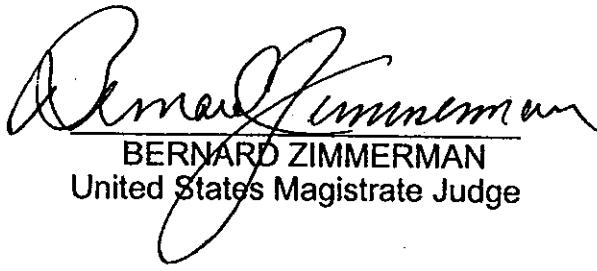
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15 **IT IS SO ORDERED.**

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17 Dated: January 16, 2002

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BERNARD ZIMMERMAN
United States Magistrate Judge

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STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA

CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

Commencing March 1, 2007, all judges of the Northern District of California will require the identical information in Joint Case Management Statements filed pursuant to Civil Local Rule 16-9. The parties must include the following information in their statement which, except in unusually complex cases, should not exceed ten pages:

1. **Jurisdiction and Service:** The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.
2. **Facts:** A brief chronology of the facts and a statement of the principal factual issues in dispute.
3. **Legal Issues:** A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
4. **Motions:** All prior and pending motions, their current status, and any anticipated motions.
5. **Amendment of Pleadings:** The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
6. **Evidence Preservation:** Steps taken to preserve evidence relevant to the issues reasonably evident in this action, including interdiction of any document-destruction program and any ongoing erasures of e-mails, voice mails, and other electronically-recorded material.
7. **Disclosures:** Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26 and a description of the disclosures made.
8. **Discovery:** Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or modifications of the discovery rules, and a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f).
9. **Class Actions:** If a class action, a proposal for how and when the class will be certified.
10. **Related Cases:** Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.
11. **Relief:** All relief sought through complaint or counterclaim, including the amount of any

damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.

13. Consent to Magistrate Judge For All Purposes: Whether all parties will consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment.

14. Other References: Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.

16. Expedited Schedule: Whether this is the type of case that can be handled on an expedited basis with streamlined procedures.

17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.

18. Trial: Whether the case will be tried to a jury or to the court and the expected length of the trial.

19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. In addition, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

APPLIED UNDERWRITERS INC.,

Plaintiff(s),

v.

COMBINED MANAGEMENT INC.,

Defendant(s).

CIVIL - 5 AM 11:08

No. C 07-05129 BZ

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Bernard Zimmerman. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order , the Notice of Assignment of Case to a United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at www.adr.cand.uscourts.gov. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
10/5/2007	Notice of removal filed	
2/4/2008	*Last day to: <ul style="list-style-type: none"> • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference 	<u>FRCivP 26(f) & ADR L.R.3-5</u> <u>Civil L.R. 16-8</u>
2/19/2008	*Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a)(1)</u> <u>Civil L.R. 16-9</u>
2/25/2008	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm G, 15th Floor, SF at 4:00 PM	<u>Civil L.R. 16-10</u>

* If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.

1 (Rev. 01/2002)
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3**STANDING ORDERS**

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1. Within 30 days of filing a complaint, plaintiff shall serve and file either a written consent to Magistrate Judge Zimmerman's jurisdiction or a written request for reassignment to a district judge. Within 30 days of being served with a complaint or third party complaint, a defendant or third party defendant shall serve and file either a written consent to Magistrate Judge Zimmerman's jurisdiction or a written request for reassignment to a district judge.

2. Civil law and motion is heard on the first and third Wednesdays of every month at 10:00 a.m. Criminal law and motion is heard on the second and fourth Wednesdays of every month at 1:30 p.m.

3. A copy of any brief or other document containing a legal citation **shall** be submitted to chambers on a diskette formatted preferably in WordPerfect 5, 6, 8 or 9. A chambers copy of any document **may** be submitted on CD-ROM with hypertext links to exhibits.

4. Any proposed order in a case subject to electronic filing shall be sent by e-mail to: bzpo@cand.uscourts.gov. This address is to be used only for proposed orders unless otherwise directed by the court.

5. Unless expressly requested by the Court, documents should **not be faxed** to chambers but should be filed or lodged in accordance with the Local Rules of Court. The Court should not be routinely copied on correspondence between counsel.

6. Motions for **summary judgment** shall be accompanied by a statement of

1 the material facts not in dispute supported by citations to admissible evidence. The
2 parties shall file a joint statement of undisputed facts where possible. If the parties are
3 unable to reach complete agreement after meeting and conferring, they shall file a joint
4 statement of the undisputed facts about which they do agree. Any party may then file a
5 separate statement of the additional facts that the party contends are undisputed. A
6 party who without substantial justification contends that a fact is in dispute is subject to
7 sanctions.

10 Local Rules or these Standing Orders. Parties should not contact Chambers for
11 answers to procedural questions. The Local Rules are available for public viewing at
12 the Court's internet site - <http://www.cand.uscourts.gov>.

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IT IS SO ORDERED.

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17 | Dated: January 16, 2002


BERNARD ZIMMERMAN
United States Magistrate Judge

STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA

CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

Commencing March 1, 2007, all judges of the Northern District of California will require the identical information in Joint Case Management Statements filed pursuant to Civil Local Rule 16-9. The parties must include the following information in their statement which, except in unusually complex cases, should not exceed ten pages:

1. **Jurisdiction and Service:** The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.
2. **Facts:** A brief chronology of the facts and a statement of the principal factual issues in dispute.
3. **Legal Issues:** A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
4. **Motions:** All prior and pending motions, their current status, and any anticipated motions.
5. **Amendment of Pleadings:** The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
6. **Evidence Preservation:** Steps taken to preserve evidence relevant to the issues reasonably evident in this action, including interdiction of any document-destruction program and any ongoing erasures of e-mails, voice mails, and other electronically-recorded material.
7. **Disclosures:** Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26 and a description of the disclosures made.
8. **Discovery:** Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or modifications of the discovery rules, and a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f).
9. **Class Actions:** If a class action, a proposal for how and when the class will be certified.
10. **Related Cases:** Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.
11. **Relief:** All relief sought through complaint or counterclaim, including the amount of any

damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.

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14. Other References: Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.

16. Expedited Schedule: Whether this is the type of case that can be handled on an expedited basis with streamlined procedures.

17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.

18. Trial: Whether the case will be tried to a jury or to the court and the expected length of the trial.

19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. In addition, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT OF CASE
TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL

Pursuant to General Order 44, the Assignment Plan of the United States District Court for the Northern District of California, this case has been randomly assigned to Magistrate Judge

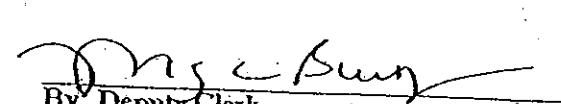
BERNARD ZIMMERMAN.

Pursuant to Title 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may conduct all proceedings in the case. Attached is a form to complete if you consent to proceed before the assigned magistrate judge and a form to complete if you decline to proceed before the assigned magistrate judge. Electronic versions of both forms are also available at the Court's Internet site: <http://www.cand.uscourts.gov>. Click on Forms-Civil. A party is free to withhold consent without adverse consequences. If a party declines to consent, the case will be randomly reassigned to a district judge and a case management conference will be scheduled on the district judge's calendar as close as possible to the date presently scheduled before the magistrate judge.

You must file your consent or declination by the deadline for filing the initial case management statement.

The plaintiff or removing party shall serve a copy of this notice and all attachments upon all other parties to this action pursuant to Federal Rules of Civil Procedure 4 and 5.

FOR THE COURT
RICHARD W. WIEKING, CLERK


By: Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C

Plaintiff(s),

CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE

Defendant(s).

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. Section 636(c), the undersigned party

hereby voluntarily consents to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

Dated: _____

Signature

Counsel for _____
(Plaintiff, Defendant or indicate "pro se")

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C

Plaintiff(s),

v.

Defendant(s).

**DECLINATION TO PROCEED BEFORE
A MAGISTRATE JUDGE
AND
REQUEST FOR REASSIGNMENT TO A
UNITED STATES DISTRICT JUDGE**

REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE

The undersigned party hereby declines to consent to the assignment of this case to a United States Magistrate Judge for trial and disposition and hereby requests the reassignment of this case to a United States District Judge.

Dated:

Signature

Counsel for _____
(Plaintiff, Defendant, or indicate "pro se")

**WELCOME TO THE U.S. DISTRICT COURT, SAN FRANCISCO
OFFICE HOURS: 9:00 A.M. TO 4:00 P.M.**

415.522.2000

www.cand.uscourts.gov

In Addition to the Local Rules, the Following Guidelines Have Been Provided to Ensure That the Filing Process Is Accomplished with Ease and Accuracy. For Additional Information or Assistance, Please Call the above Number During Office Hours.

1. Documents are to be filed in the Clerk's Office at the location of the chambers of the judge to whom the action has been assigned. We do not accept filings for cases assigned to judges or magistrate judges in the Oakland or San Jose division, per Civil L.R. 3-2(b).
2. This office will retain the original plus one copy of most documents submitted. We will conform as many copies as you bring for your use. Related cases require an extra copy for each related action designated.
3. The copy retained goes directly to the assigned Judge. Courtesy copies, or instructions for couriers to deliver a copy directly to chambers are inappropriate, unless you have been instructed to do so by court order.
4. In order to facilitate the file stamping process, each original document should be submitted on top of its copies. In other words, group like documents together--as opposed to a set of originals and separate sets of copies.
5. The case number must indicate whether it is a civil or criminal matter by the inclusion of **C** or **CR** at the beginning of the number. Miscellaneous and foreign judgment matters should also be indicated with initials **MISC** or **FJ** at the end of the case number.
6. The case number must include the initials of the judge and/or magistrate judge followed by the letters designating the case Arbitration (**ARB**), Early Neutral Evaluation (**ENE**) or Mediation (**MED**)--if assigned to one of those programs.
7. The document caption should include the appropriate judge or magistrate judge involved in a particular matter or before whom an appearance is being made. This is especially important when submitting Settlement Conference Statements.
8. Documents are to be stapled or acco-fastened at the top. Backings, bindings and covers are not required. Two holes punched at the top of the original document will facilitate processing.
9. Appropriately sized, stamped, self-addressed return envelopes are to be included with proposed orders or when filing documents by mail.

10. Proofs of service should be attached to the back of documents. If submitted separately, you must attach a pleading page to the front of the document showing case number and case caption.
11. There are no filing fees once a case has been opened.
12. New cases must be accompanied by a completed and signed Civil Cover Sheet, the filing fee or fee waiver request form and an original plus **two** copies of the complaint and any other documents. For Intellectual Property cases, please provide an original plus **three** copies of the complaint. Please present new cases for filing before 3:30 p.m., as they take a considerable amount of time to process.
13. Copies of forms may be obtained at no charge. They may be picked up in person from the Clerk's Office forms cabinet or with a written request accompanied by an appropriate sized, stamped, self-addressed envelope for return. In addition, copies of the Local Rules may be obtained, free of charge, in the Clerk's Office or by sending a written request, along with a self-addressed, 10" x 14" return envelope, stamped with **\$ 3.95** postage to: Clerk, U.S. District Court, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102.
14. Two computer terminals which allow public access to case dockets and one terminal with information regarding files at the Federal Records Center (FRC) are located in the reception area of the Clerk's Office. Written instructions are posted by the terminals. Outside of the Clerk's Office, electronic access to dockets is available through PACER. To obtain information or to register call 1-800-676-6851.
15. A file viewing room is located adjacent to the reception area. Files may be viewed in this area after signing the log sheet and presenting identification. Files are to be returned by 1:00 pm Under no circumstances are files to be removed from the viewing room.
16. The Clerk's Office can only accept payment by exact change or check made payable to Clerk, U.S. District Court. No change can be made for fees or the public copy machine.
17. Two pay copy machines are located in the file viewing room for public use, at fifteen cents (\$.15) per page. Copy cards may be purchased at the snack bar on the first floor. Orders for copywork may be placed through Eddie's Document Retrieval by phoning 415-317-5556. Arrangements may be made to bring in a personal copier by calling the Clerk's Office in advance.
18. We have a drop box for filing when the Clerk's Office is closed. Please see attached for availability and instructions.

SAN FRANCISCO

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Alsup, William H.	WHA	Chen, Edward M.	EMC
Breyer, Charles R.	CRB	James, Maria-Elena	MEJ
Chesney, Maxine M.	MMC	Laporte, Elizabeth D.	EDL
Conti, Samuel	SC	Larson, James	JL
Hamilton, Phyllis J.	PJH	Spero, Joseph C.	JCS
Henderson, Thelton E.	TEH	Zimmerman, Bernard	BZ
Illston, Susan	SI		
Jenkins, Martin J.	MJJ		
Patel, Marilyn Hall	MHP		
Schwarzer, William W	WWS		
Walker, Vaughn R	VRW		
White, Jeffrey S.	JSW		

SAN JOSE

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Fogel, Jeremy	JF	Lloyd, Howard R.	HRL
Ware, James	JW	Seeborg, Richard	RS
Whyte, Ronald M.	RMW	Trumbull, Patricia V.	PVT

OAKLAND

Article III Judges	Judges Initials	Magistrate Judges	Judges Initials
Armstrong, Saundra B.	SBA	Brazil, Wayne D.	WDB
Jensen, D. Lowell	DLJ		
Wilken, Claudia	CW		

San Francisco	16th Floor	building closed between 6PM and 6AM	more info 415-522-2000
San Jose	2nd Floor	building closed between 5PM and 7:30AM	more info 408-535-5364
Oakland	1st Floor	building closed between 5:00 PM and 7:00 AM	more info 510-637-3530

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DROP BOX FILING PROCEDURES

1. The drop box, located outside the Clerk's Office (see above chart), is available for the filing of documents before 9:00 a.m. and after 4:00 p.m. weekdays. Please note that access to the federal building is limited to 'normal business hours' (as noted in the chart above).
2. The drop box may not be used for the filing of any briefs in support of, or in opposition to, any matter scheduled for a hearing within 7 calendar days. All such documents must be filed in the Clerk's Office during regular office hours by the date due.
3. Using the electronic file stamping machine located next to the drop box, stamp each original document "Received" on the **back side of the last page**. Clerk's Office employees empty the box once each court day when the Clerk's Office opens to the public. The "Filed" date, which will be placed on original documents by Intake personnel, will be the same as the "Received" date, unless the "Received" date is a weekend or Court holiday. In those instances, the "Filed" date will be the first court day following the weekend or holiday. Documents placed in the drop box without a "Received" stamp will be filed as of the day the box is next emptied.
4. After stamping each original and enclosing one copy for the court,* the documents must be placed in an orange court mailing pouch or red Expando folder provided for your convenience. *To facilitate processing of your documents, each original document should be submitted on top of its copies.* Prior to placing the pouch or folder in the drop box, please insert in the pouch or folder window a fully completed **Drop Box Filing Information Card**. You may use more than one pouch or folder per filing, *but a separate Information Card must be enclosed for each one.*

(*Please note that the Clerk's Office will retain two copies of all new complaints relating to patents, trademarks and copyrights.)

5. If you wish us to mail you one or more conformed copies that you have provided, you must enclose an appropriately sized, self-addressed, stamped envelope with adequate return postage. Alternatively, if you would like to pick up conformed copies, please mark your return envelope **"FOR MESSENGER PICK UP BY: (NAME, FIRM)"**. Your copies will be available for pick-up **after 2:00 p.m.** on the day the drop box is emptied.
6. A filing fee, if required, may be paid by check or money order, payable to "Clerk, U.S. District Court" in an exact amount. *Please do not enclose cash.*
7. Documents deposited in the drop box must be in compliance with all local and federal rules as appropriate. Documents filed "Under Seal" must be submitted in compliance with Civil

BZ

U.S. District Court Northern California

ECF Registration Information Handout

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you must (check off the boxes when done):

- 1) Serve** this ECF Registration Information Handout on all parties in the case along with the complaint, or for removals, the removal notice. DO NOT serve the efilier application form, just this handout.

Each attorney representing a party must also:

- 2) Register** to become an efilier by filling out the efilier application form. Follow ALL the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- 3) Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- 4) Access** dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - it is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.

ECF registration forms, interactive tutorials and complete instructions for efilier may be found on the ECF website: <http://ecf.cand.uscourts.gov>

1 PROOF OF SERVICE BY MAIL

2 I am employed in the County of San Francisco, State of California. I am over the age of
3 eighteen years and not a party to the within action; my business address is One California Street,
4 Third Floor, San Francisco, CA 94111.

5 On the date set forth below, I served the following document:

6 **NOTICE TO ADVERSE PARTY OF REMOVAL TO FEDERAL COURT**
7 on the interested parties in this action by placing a true copy thereof enclosed in a sealed
8 envelope with postage thereon fully prepaid, in the United States mail at San Francisco,
9 California, addressed as follows:

10 Michael K. Perkins
11 Fine, Boggs & Perkins LLP
12 2450 South Cabrillo Hwy., Suite 100
13 Half Moon Bay, CA 94019
*Attorneys for plaintiffs Applied Underwriters, Inc.
and Applied Risk Services, Inc.*

14 I am readily familiar with this firm's business practice for collection and processing of
15 correspondence for mailing with the United States Postal Service. I caused such sealed envelope
16 with postage thereon fully prepaid to be placed in the United States mail the same day as this
17 declaration at San Francisco, California in the ordinary course of business.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed on October 9, 2007 at San Francisco, California.

21 
22 Linda Rorem
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27